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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,779	04/09/2004	Perry Freiling	85269-102 RWD	8825
23529	7590	03/10/2006		
ADE & COMPANY INC. P.O. BOX 28006 1795 HENDERSON HIGHWAY WINNIPEG, MB R2G1P0 CANADA			EXAMINER OKEZIE, ESTHER O	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/820,779	Applicant(s) FREILING ET AL.	
	Examiner Esther O. Okezie	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed on 12/22/2005 and the remarks presented therewith have carefully considered. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,2,14,15,20,21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chalmers.
2. Re claims 1,14,20, Chalmers disclose lifting hooks comprising an elongate shaft member (1) extending in a longitudinal direction between respective first and second ends; a hook member (2) supported on the first end of the shaft member, the hook member comprising only a flat hook which is substantially straight along a hook axis lying substantially perpendicular to the longitudinal direction of the shaft member; and a gripping member (H) supported on the shaft member adjacent the second end thereof and capable of being gripped in a hand of a person.

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3. Re claims 2,15,21, Chalmers discloses the shaft member and the hook member are integrally formed of a single rod of material which has been deformed (col. 4, lines 38-44).

4. Claims 1,3,6,14,16,19,20,22,25 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas.

5. Re claim 1,14,20 Thomas discloses a multi-function tool, comprising: an elongate shaft member (21) extending in a longitudinal direction between respective first and second ends; a hook member (28) supported on the first end of the shaft member, the hook member comprising only a flat hook which is substantially straight along a hook axis lying substantially perpendicular to the longitudinal direction of the shaft member; and a gripping member (42) supported on the shaft member adjacent the second end thereof for being gripped in a hand of a person.

6. Re claim 3,16,22 the shaft member is a circular in cross section at the first end thereof (fig 5).

7. Re claim 6,19, 25, the gripping member comprises a handle mounted on the shaft member transversely to the longitudinal direction of the shaft member and the hook axis, the gripping member being fixed in orientation relative to the shaft member and the hook member (fig 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4,5,17,18,23,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas.

9. Re claim 4,17,23, Thomas does not disclose the length of the tool. It would have been obvious to design the shaft length according to the suitability for the intended use, furthermore it would have been an obvious matter of design choice to construct the shaft approximately two feet in length, since such a modification would have involved mere change in size of a component. A change in size is generally recognized as within the level of ordinary skill in the art.

10. Re claim 5,18,24 Thomas does not disclose the cross sectional dimensions of the hook or shaft member. It would have been to construct the shaft and hook cross sectional dimensions according to the suitability for the intended use, furthermore it would have been an obvious matter of design choice to construct the shaft and hook cross sectional dimensions substantially less than half an inch, since such a modification would have involved mere change in size of a component. A change in size is generally recognized as within the level of ordinary skill in the art.

11. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Fowler. Thomas does not disclose deforming shaft and injection

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molding the handle about the shaft. Fowler discloses a sliding hook wherein the hook member (12) and the handle body (14) are injection molded to the body portion (11; col. 3, lines 29-44) It would have been obvious to one of ordinary skill in the art to injection mold pieces together to form the hook of Thomas as taught by Fowler because molded sections undergo less tensile stresses than sections formed by bending, accordingly, these sections would be stronger for lifting objects.

Response to Arguments

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 3/6/06



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TECHNOLOGY CENTER 3600